

City of Costa Mesa

Inter Office Memorandum

TO: PLANNING COMMISSION

FROM: MEL LEE, SENIOR PLANNER *MEL*

DATE: AUGUST 4, 2010

SUBJECT: SUPPLEMENTAL INFORMATION
REVIEW OF ZONING APPLICATIONS ZA-89-25 AND ZA-92-10
FOR GARCIA RECYCLING AT 739 WEST 19TH STREET
PLANNING COMMISSION MEETING OF AUGUST 9, 2010

Attached for your information is a revised Planning Commission resolution should the Commission decide to revoke the minor conditional use permits for the above use. Text revisions were made to the findings for revocation in Exhibit "A" of the Planning Commission resolution.

Attachment

cc: Development Services Director
Asst. Development Services Director
Deputy City Attorney
City Engineer
Transportation Svs. Mgr.
Fire Protection Analyst
Staff (4)
File (2)

Garcia Recycling Centers & Metals Inc.
Attn: Jesus Garcia
1115 S. Elliot Place
Santa Ana, CA 92704

Russell Pange Trust
1835 Newport Boulevard, #A109
Costa Mesa, CA 92627

Miles+Chen Law Group
Attn: Patricia J. Chen
9911 Irvine Center Drive, Suite 150
Irvine, CA 92618

RESOLUTION NO. PC-10-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA REVOKING ZONING
APPLICATIONS ZA-89-25 AND ZA-92-10**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, applications were filed by Jesus Garcia, authorized agent for Russell Pange Trust, requesting approval of minor conditional use permit for a recycling facility, located at 739 West 17th Street in a C1 zone;

WHEREAS, on November 6, 1989, the Zoning Administrator approved Zoning Application ZA-89-25 for a minor conditional use permit for a recycling center at the subject location;

WHEREAS, on December 1, 1992, the Zoning Administrator approved Zoning Application ZA-92-10 for a minor conditional use permit for the relocation and expansion of a previously-approved recycling center at the subject location;

WHEREAS, a review of the minor conditional use permits were requested by Commissioner Mensinger to determine if the minor conditional use permits should be modified or revoked on the basis of being a public nuisance; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 12, 2010, and continued to August 9, 2010.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **REVOKES** Zoning Applications ZA-89-25 and ZA-92-10 with respect to the property described above.

PASSED AND ADOPTED this 9th day of August, 2010.

James Righeimer, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. Revocation of ZA-89-25 and ZA-92-10 was initiated because the operation of the use (a recycling facility) was determined to constitute a public nuisance pursuant to Municipal Code Section 13-29(o) (Enforcement Authority). The use is not being operated in compliance with the conditions of approval for ZA-89-25 and ZA-92-10, specifically:
1. The recycling facility is not being operated in a manner deemed compatible with surrounding properties and uses. From July 2009, to the present, the City has documented code enforcement and Planning staff inspections of the use identifying the following concerns: excessive noise related to employees pouring recycled materials into containers at the facility; odors stemming from used beverage containers, the operator's failure to maintain the cleanliness of the facility; customers loitering during and outside of business hours; customers parking on adjacent properties to use the recycling facility. The conditions of approval of ZA-89-25 and ZA-92-10 were designed to minimize these types of impacts.
 2. The use creates a negative visual impact on West 19th Street, due to lack of property maintenance. Specifically, the containers generally have an unsightly, "battered" appearance; the landscape planters surrounding the facility have not been adequately maintained due to high use of the facility by customers; and the high volume of for recyclables received at this location requires the staging of a commercial truck on a long-term basis, in lieu of a second recycling container.
 3. A significant degree of City staff resources has been devoted to the use as a result of complaints related to the use and continual enforcement of noise and property maintenance issues. The business owner/property owner has failed to rectify the problems to be in compliance with the minor conditional use permit requirements to the satisfaction of the City.
 4. Issues related to noise, odors, loitering, and property maintenance are not prevalent at other recycling facilities in the City as they are at this location. According to City records, the City has had no complaints related to noise, odors, loitering, property maintenance, etc. related to the operation of the recycling facilities at other locations in the City.
 5. Modifications to the conditions of approval for ZA-89-25 and ZA-92-10 are not sufficient to address the adverse impacts to surrounding properties. Revocation will require cessation of the current use and a similar use cannot be established in the future unless a new Zoning Application is submitted and approved.
 6. The intensity and scale of the recycling facility is inappropriate for a prominent parking lot location adjacent to West 19th Street, a major arterial designated as an "urban path" in the City's 2000 General Plan. Given the high volume of recycling occurring at this facility, the facility is considered out-of-scale with the intended function of minor recycling facilities which are approved in parking lots pursuant to a minor conditional use permit.
 7. If the minor conditional use permits are revoked, the City will remain in compliance with all applicable provisions of State Law as it pertains to recycling and waste management. Specifically, revocation would not result in an unserved

“convenience zone” as defined by State Law because the area would continue to be served by the existing recycling facility at Von’s Market. Additionally, revocation of the minor conditional use permits would not compromise the Integrated Waste Management Plan because the City’s Sanitary District separates recyclables from regular trash to comply with the applicable beverage container diversion goals.

- B. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City’s environmental procedures, and has been found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies.
- C. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

VI.3
ZA-89-25 & ZA-92-10

From: Jim Fitzpatrick
Sent: Saturday, July 31, 2010 3:26 PM
To: LEE, MEL
Cc: NGUYEN, KHANH
Subject: FW: Recycling Center

Mel,

Suggest that this picture also be shared with Planning Commissioners and be considered as part of the Staff Report.

Jim

Ralph's @ 2555 Eastbluff NB, CA

08/02/2010

RECYCLING CENTER

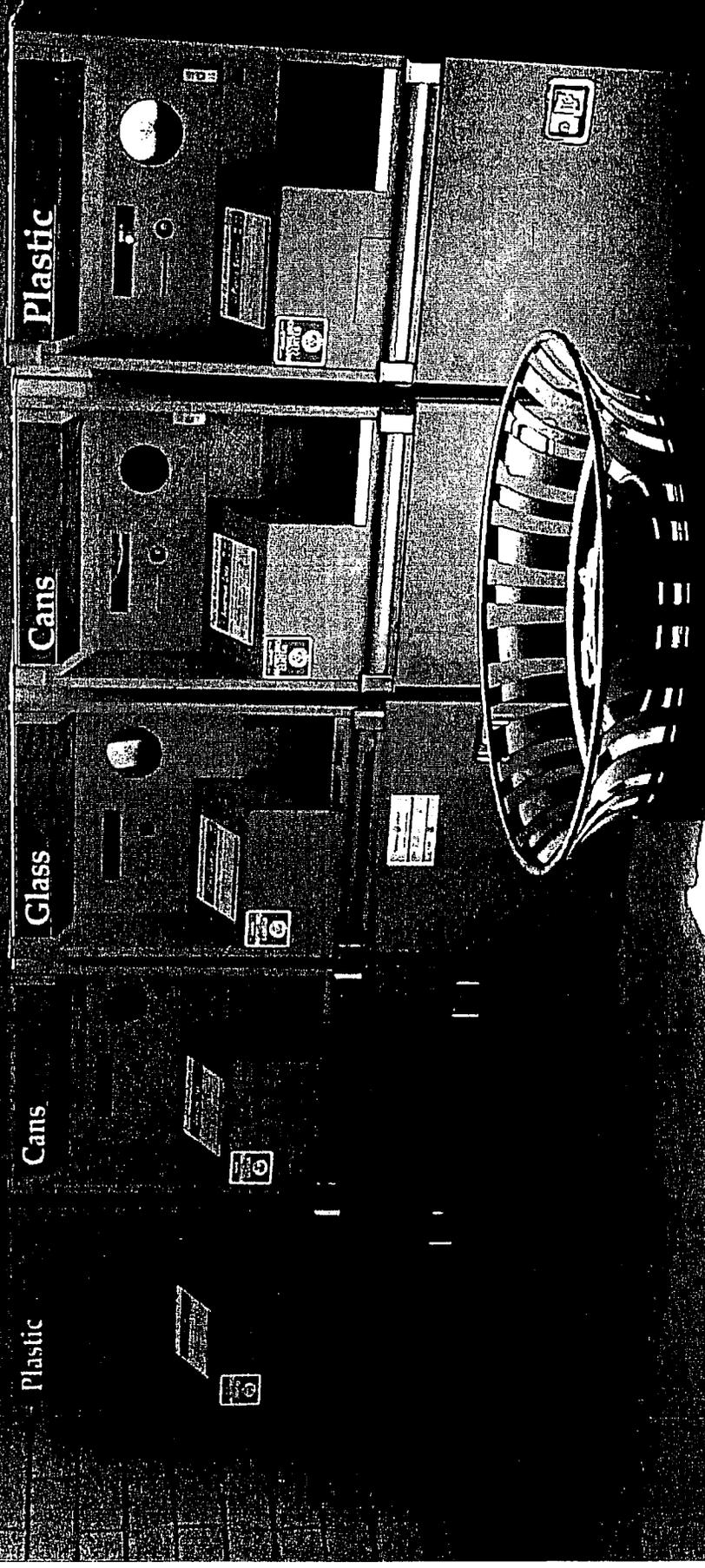
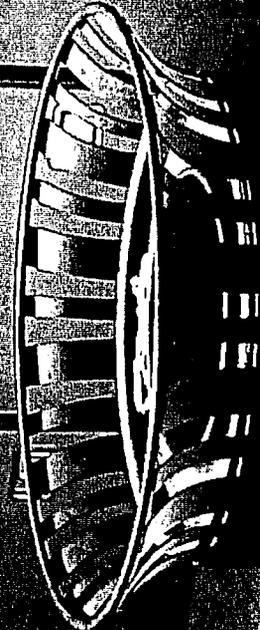
Plastic

Cans

Glass

Cans

Plastic



VI.3
ZA 89-25 & ZA-92-10

From: LEE, MEL
Sent: Monday, August 02, 2010 8:06 AM
To: VIERA, CORRIE
Subject: FW: Newport Beach code on recycling center

Another for the Commission.

Thanks,

Mel

From: Jim Fitzpatrick
Sent: Saturday, July 31, 2010 3:18 PM
To: LEE, MEL
Cc: NGUYEN, KHANH
Subject: RE: Newport Beach code on recycling center

Mel, Can you please send this to all Commissioners so that have this, and consider making it part of the Staff Report.

Thanks,

Jim

From: Jim Fitzpatrick
Sent: Monday, July 12, 2010 9:40 AM
To: 'LEE, MEL'
Cc: 'NGUYEN, KHANH'
Subject: FW: Newport Beach code on recycling center

Mel, just wanted to follow up on our meeting, here is the NB vs CM code comparison on Recycling Centers.

Jim

Following is a brief comparison of the City of Newport Beach's and Costa Mesa's regulations on recycling facilities. Overall, it appears that the City of Newport Beach has codified (in other words, specified in their Municipal Code) specific regulations that would typically appear as conditions of approval on the use permit application in Costa Mesa.

Please let me know if you have any additional questions.

Differences:

- Costa Mesa Municipal Code (CMMC) does not make a distinction between small and large recycling facilities. Code requires a MCUP in primarily all of the commercial and industrial zones, excluding Town Center zoning district where they are prohibited.
- CMMC does not specify a buffer zone or separation requirement from residential zones.
- CMMC does not specify that the recycling facility be comprised of enclosed structures or be screened by a block wall.
- CMMC does specify that the recycling facility be located outside the required street setback.
- CMMC makes a distinction between what types of materials can be recycled or collected in terms of being hazardous or nonhazardous materials.

Similarities:

- Costa Mesa has similar requirements through conditions of approval regarding signage, parking availability, appearance of storage containers, litter-free environment, prohibition on parking of commercial vehicles (i.e. box trucks), etc.
- Through conditions we can also indicate what types of materials (i.e. only CRV glass, aluminum, or plastic containers, paper, and other recyclable items and not scrap metal) can be recycled.

Thanks.
Claire

here is the Title 20 Code from NB

20.48.160 – Recycling Facilities

This Section establishes standards and procedures for the siting and operation of various types and sizes of commercial recycling facilities.

A. Small collection facilities. A small collection facility shall:

1. Not exceed an area of 350 square feet or 3 parking spaces, not including space that would be periodically needed for the removal of materials or exchange of containers;
2. Be set back at least 10 feet from a public right-of-way and shall not obstruct pedestrian or vehicular circulation;
3. Accept only CRV glass, aluminum, or plastic containers, paper, and other recyclable items;
4. Not use power-driven processing equipment;
6. Not be located within 50 feet of a lot zoned or occupied for residential use;

7. Have containers and site fencing that are compatible in color and design and harmonious with the surrounding neighborhood;
 8. Store materials in sturdy containers that are secured and maintained in good condition. Storage, excluding truck trailers, shall not be visible above the height of the required screen walls;
 9. Be kept clean and free of litter;
 10. Have signs as follows:
 - a. Identification signs with a maximum area of 15 percent for each side of the structure or 12 square feet, whichever is less. In the case of a wheeled facility, the side shall be measured from the ground to the top of the container;
 - b. Signs that are compatible and harmonious with the character of their location; and
 - c. Directional signs, consistent with Chapter 20.42 (Sign Standards) and without advertising message, installed with the approval of the Director if found necessary to facilitate traffic circulation or if the facility is not visible from the public right-of-way.
 11. Not reduce available parking spaces below the minimum number required for the principal use.
- B. Large collection facilities.** A large collection facility shall:
1. Not be located within 300 feet of a residential use;
 2. Be screened from public rights-of-way by solid masonry walls or located within an enclosed structure as required by the review authority;
 4. Store materials in sturdy containers that are secured and maintained in good condition. Storage, excluding truck trailers, shall not be visible above the height of the required screen walls; and
 5. Be kept clean and free of litter.



Ms. Gabriele McAllister
376 E 18th St. # C
Costa Mesa, CA 92627

VI.3

ZA-89-25 & ZA-92-10

Aug 3rd, 2010

Received

City of Costa Mesa
Development Services Department

AUG 4 2010

To: City of Costa Mesa
c/o Mel Lee / Senior Planner

Mr. Lee,

I am writing you this letter regarding Garcia's Recycling at W. 19th St.

I have been taking my recycle there for about 2 years. The place is kept very clean and the personnel is extremely helpful. Since I am 60 years old and have severe arthritis, it is very refreshing to find a company that will help to unload my car. They tried to improve their place by putting in artificial grass, which by the way looked real, and you asked them to take it out. Why?

Unfortunately with people walking and unloading on the real grass, it doesn't last that long. Also they supply soap and water, so people are able to wash their hands.

Again unfortunately every recycling place does have homeless people around. But that's not Garcia's fault.

In conclusion, I don't really see any reason why you would want to close such a good place.

If you should have any questions, please feel free to contact me at 949-646-9611.

Sincerely,

Gabriel Mc Allister

CC : Miles-Chen Law Group - Patricia Chen
Garcia's Recycle